

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OLD REPUBLIC GENERAL
INSURANCE CORPORATION,

Plaintiff,

v.

COLONY SPECIALTY INSURANCE
COMPANY, et al.,

Defendants.

No. 1:20-cv-00778-DAD-BAK

ORDER GRANTING JOINT MOTION TO
VOLUNTARILY DISMISS DEFENDANT
NAVIGATORS SPECIALTY INSURANCE
COMPANY FROM THIS ACTION

(Doc. No. 78)

On April 20, 2022, plaintiff Old Republic General Insurance Corporation and defendant Navigators Specialty Insurance Company (“Navigators”) filed a joint motion requesting an order dismissing defendant Navigators from this action, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2). (Doc. No. 78.) In the pending motion, plaintiff and defendant stipulated that they “have no further dispute about whether Navigators has a duty to defend the mutual insured in the underlying action” and agree that plaintiff’s operative second amended complaint, as brought against defendant Navigators, should be dismissed without prejudice. (*Id.* at 2.)

Dismissals under Rule 41 are not limited to dismissals of entire actions; a plaintiff may request voluntary dismissal of a single defendant from an action. *See Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 688 (9th Cir. 2005) (noting that Rule 41 “allow[s] the

1 dismissal of *all* claims against *one* defendant, so that a defendant may be dismissed from the
2 entire action”). A district court should grant a motion for voluntary dismissal under Rule 41(a)(2)
3 unless a defendant can show that it will suffer some plain legal prejudice as a result. *Waller v.*
4 *Fin. Corp. of Am.*, 828 F.2d 579, 583 (9th Cir. 1987). Here, plaintiff and defendant Navigators
5 agree that Navigators should be dismissed as a named defendant in this action, and the remaining
6 defendants did not file any oppositions to the pending motion. Accordingly, the court will grant
7 the joint motion and dismiss defendant Navigators from this action without prejudice.

8 Good cause appearing, it is hereby ordered that:

- 9 1. The motion to dismiss defendant Navigators Specialty Insurance Company from
10 this action (Doc. No. 78) is granted;
- 11 2. Plaintiff’s claims against defendant Navigators Specialty Insurance Company in
12 this action are dismissed, without prejudice; and
- 13 3. The Clerk of the Court is directed to update the docket to reflect that defendant
14 Navigators Specialty Insurance Company has been terminated as a named
15 defendant in this action.

16 IT IS SO ORDERED.

17 Dated: May 2, 2022

18 
19 _____
20 UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26
27
28